

The Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

**UNITED STATES OF AMERICA,**

NO. CR17-218 RSL

**Plaintiff,**

[PROPOSED]  
DISCOVERY PROTECTIVE ORDER

GREGORY L. SMITH and  
KYLE R. MCCLURE,

#### Defendants.

This matter, having come to the Court's attention on the Stipulation for Entry of a Discovery Protective Order submitted by the United States of America and the Defendants, GREGORY L. SMITH and KYLE R. MCCLURE, and their respective attorneys, and the Court, having considered the motion, and being fully advised in this matter, hereby enters the following PROTECTIVE ORDER:

#### 1. Protected Material

The following documents and materials are deemed Protected Material. The United States will make available copies of the Protected Materials, including those filed under seal, to defense counsel to comply with the government's discovery obligations. Possession of copies of the Protected Materials is limited to the attorneys of record, and

1 investigators, paralegals, law clerks, experts, and assistants for the attorneys of record  
2 (hereinafter collectively referred to as members of the defense team). This category of  
3 Protected Materials will be marked and labeled as "Protected Material":

- 4       a.     Grand Jury transcripts and exhibits.
- 5       b.     Audio/video recordings of witnesses and defendants.
- 6       c.     Witness and defendant statements, including but not limited to  
7 reports of law enforcement officers memorializing witness statements.
- 8       d.     The personal information related to victim/witnesses, and any  
9 statements and documents containing personal information about or related to any  
10 victims and witnesses.

11       As used in this Order, the term "personal information" refers to each victim and  
12 witness's full name, date of birth, Social Security number (or other identification  
13 information), driver's license number, address, telephone number, location of residence  
14 or employment, school records, juvenile criminal records, and other confidential  
15 information.

16       The party producing discovery is responsible for clearly identifying the material  
17 that is covered under the terms of this order as protected.

18       2. Scope of Review of Protected Material

19       The attorneys of record and members of the defense teams may display and review  
20 the Protected Material with their respective Defendant. The attorneys of record and  
21 members of the defense teams agree that providing copies of the Protected Material to the  
22 Defendants and other persons is prohibited and they will not duplicate or provide copies  
23 of Protected Material to the Defendants and other persons. The only exception to this  
24 prohibition is that the attorneys of record and members of the defense teams may provide  
25 electronic copies of Protected Material to the Federal Detention Center at SeaTac,  
26 Washington, for use in a controlled environment by their respective Defendant, who is  
27 currently in custody at the FDC.

1       The United States Attorney's Office for the Western District of Washington is  
2 similarly allowed to display and review the Protected Material to lay witnesses, but is  
3 otherwise prohibited from providing copies of the Protected Material to lay witnesses, i.e.  
4 non-law enforcement witnesses.

5           3. Consent to Terms of Protective Order

6       Members of the defense team shall provide written consent and acknowledgement  
7 that they will each be bound by the terms and conditions of this Protective Order. The  
8 written consent need not be disclosed or produced to the United States unless requested  
9 by the Assistant United States Attorney and ordered by the Court.

10          4. Parties' Reciprocal Discovery Obligations

11       Nothing in this order should be construed as imposing any discovery obligations  
12 on the government or the defendant that are different from those imposed by case law and  
13 Rule 16 of the Federal Rules of Criminal Procedure, and the Local Criminal Rules.

14          5. Filing of Protected Material

15       Any Protected Material that is filed with the Court in connection with pre-trial  
16 motions, trial, sentencing, or other matter before this Court, shall be filed under seal and  
17 shall remain sealed until otherwise ordered by this Court. This does not entitle either  
18 party to seal their filings as a matter of course. The parties are required to comply in all  
19 respects to the relevant local and federal rules of criminal procedure pertaining to the  
20 sealing of court documents.

21          6. Nontermination

22       The provisions of this Order shall not terminate at the conclusion of this  
23 prosecution.

24          7. Violation of Protective Order

25       Any violation of any term or condition of this Order by the Defendants, their  
26 attorney(s) of record, any member of the defense team, or any attorney for the  
27 United States Attorney's Office for the Western District of Washington, may be held in  
28

1 contempt of court, and/or may be subject to monetary or other sanctions as deemed  
2 appropriate by this Court.

3 If any Defendant violates any term or condition of this Order, the United States  
4 reserves its right to seek a sentencing enhancement for obstruction of justice, or to file  
5 any criminal charges relating to the Defendant's violation.

6 DATED this 21<sup>st</sup> day of February, 2018.

7  
8   
9

10 HON. ROBERT S. LASNIK  
11 UNITED STATES DISTRICT JUDGE

12 Presented by:

13 /s/ Joseph Silvio

14 JOSEPH SILVIO

15 /s/ Terrence Kellogg

16 TERRENCE KELLOGG

17 /s/ Steve Karimi

18 STEVE KARIMI